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Testimony  
Before the Committee on Resources  
Subcommittee on Water and Power  
United States House of Representatives

Hearing on H.R. 4389 (Issa) Santa Margarita River, California  
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Mr. Chairman, I am Milton Davies, a member of the Board of Directors of the Fallbrook Public Utility District (FPUD) and the Fallbrook Sanitary District that merged with FPUD since 1981. The people of Fallbrook appreciate this opportunity to discuss the need for the Santa Margarita River Conjunctive Use Project. It appears there really may be a light at the end of the tunnel for this project after 80 years of water rights litigation, studies, hearings, re-restudies and much frustration. The spirit of cooperation between the Bureau of Reclamation, the Navy Department, local Marine Corps officials and the District has never been better. The time to move forward on this project is not only ripe, but it is reaching the point of absolute necessity. Exhibit A is a vicinity map showing the general location of this project.

## PROJECT HISTORY

The first efforts to develop the water resources of the Santa Margarita River occurred in 1924 when the Fallbrook Irrigation District retained a Los Angeles consulting engineer, J.W. Lippencott, to design a dam at the Fallbrook dam site. In 1930, the state of California issued the first water appropriation permit on the Santa Margarita River to the Fallbrook Irrigation District.

In 1926, the Vail Ranch, a large land grant occupying almost the whole Temecula Valley was sued by the Rancho Santa Margarita (later to become Camp Pendleton), over water rights to the Santa Margarita River. The Fallbrook Irrigation District was unsuccessful in trying to resolve the dispute amicably. This litigation was settled in 1940 with a stipulated judgment dividing the water resources between the litigants but setting the stage for the present, unresolved dispute since it failed to account for the 1930 appropriative permit issued to Fallbrook.

In 1941, the federal government purchased Rancho Santa Margarita for a U.S. Marine Corps training base. In the 1940's, the Department of the Navy, in order to provide additional dependable water supplies for Camp Pendleton, proposed construction of a reservoir at the DeLuz Creek site, downstream from the Fallbrook site, and applications were made to the California State Engineer by both the FPUD and the Navy Department for permits to construct reservoirs at the above mentioned sites.

In order to accommodate the requirements of both Fallbrook and the Navy Department, and to provide a basis for agreement on water rights, the Corps of Engineers and the Bureau of Reclamation oriented their studies toward developing the DeLuz site to serve both parties. In January 1949, a tentative agreement was reached among several agencies of the federal government, the State of California, and the District on a cooperative endeavor to build a multi-purpose reservoir at the DeLuz site and to share the costs and benefits of this project.

In 1954, an effort was made to settle the controversy between the United States and local interests by legislation with the enactment by Congress of P.L. 83-547, the Santa Margarita Project Act. This Act provided for the construction of a dam and reservoir at the DeLuz site and for the division of appropriated water on a 60-40 basis to the Navy and the District. This provision for the division of water was not accepted by the Department of Justice, so litigation was resumed and did not terminate until 1963. The trial court ruled in favor of the federal government and declared the 1940 Stipulated Judgment null and void. The State of California interceded on Fallbrook's behalf before the Appellate Court. In 1966, the Appellate Court overruled the trial court, validated Fallbrook's water rights and reinstated the 1940 Stipulated Judgment.

In January 1969, the Bureau of Reclamation completed a preliminary draft of the Feasibility Report for the Santa Margarita Project, and was in the process of preparing the final report when the National Environmental Policy Act of 1969 (NEPA) was enacted which required an environmental impact report for all federal projects. The reservoirs, which would be jointly operated as one pool of water by the Bureau of Reclamation, would provide water conservation, storage facilities, and flood control capability.

At the same time, the District went ahead with the purchase of land for the reservoir. The District still owns 1400 acres of river valley for the purpose of water resources development. This key portion of the land ownership means that the entire stretch of the river from Temecula to the ocean is in public ownership.

In 1981, when President Reagan was elected, there was a new federal interest in this project, and it was revived in Congress. Congressman Clair Burgener introduced legislation to get study money from the Bureau of Reclamation. In 1983, his replacement, Congressman Ron Packard, and Senator Pete Wilson introduced a bill in Congress to authorize construction of a two-dam project. That legislation stalled as a result of intense opposition from the very same environmental organizations that now support the Conjunctive Use Project.

At the mutual request of the District and Camp Pendleton representatives, a scaled back project study was begun in January 1985 by the Bureau of Reclamation consisting of a Fallbrook Dam, plus flood control facilities on Camp Pendleton, with the location being the same as the Fallbrook Dam in the two dam plan. In May 1985, the House Armed Services Committee directed the Department of the Navy to study the water needs of Camp Pendleton; that study was scheduled to be completed by October 1987.

In April 1986, the Bureau of Reclamation stopped work on the project and FPUD picked up the ball. Camp Pendleton's study, known as the Leeds-Herkenhof report, came out in 1988 and concluded that the base could resolve their flood control issues with levees and they could get a pipeline connection to the San

Diego County Water Authority to get access to imported water and solve their water supply problem. That, in essence, was the final death knell for the two-dam project.

The District did complete studies in the late 1980's for a single dam project and at that time, determined that it was neither financially nor environmentally feasible.

In 1990, a two-party agreement was signed by FPUD and Camp Pendleton which recognized that if upstream dischargers put recycled water into the Santa Margarita River, then these two parties would benefit from the water supply out of those discharges and that they would enter into a joint project to operate the groundwater basin and treatment facilities. This was the birth of the Conjunctive Use Project. At that point it was necessary to pursue feasibility and environmental work. The Conjunctive Use Study was prepared in 1994 as a follow-up to the two-party agreement. This study was the basis for the project that is being proposed today.

One of the two primary objectives of the project presented to you today is the resolution of eighty years of water rights disputes and litigation on the Santa Margarita River, over 60 years of which involve the federal government. Secondly, this project will provide for an environmentally sound, financially feasible, water resource development where it is most needed, in coastal Southern California.

Ladies and Gentlemen, we have needed this project for decades. Thanks to the efforts of others, the area has developed because of imported water from the Colorado River and Northern California. But we can no longer rely on the same level of supplies from those outside sources to meet all our future needs. We must develop our local water resources.

Thank you very much for this opportunity to appear before you today and offer this testimony in support of H.R. 4389.

## **SANTA MARGARITA WATER RESOURCES**

### **Historical Timeline 1922-Present**

- 1922** Fallbrook Public Utility District established to provide potable water to downtown Fallbrook (500 acres).
- 1925** Fallbrook Irrigation District established to provide agricultural water from both San Luis Rey and Santa Margarita Rivers. Initial studies began for diversion and storage on Santa Margarita River. Fallbrook dam site selected.
- 1926** Vail Ranch sued by Santa Margarita Ranch over Santa Margarita water rights. Fallbrook Irrigation District tried to resolve issue unsuccessfully.
- 1928** Fallbrook Irrigation District filed condemnation suit for unused riparian rights on Santa Margarita River.
- 1930** Fallbrook Irrigation District issued permit to appropriate 35,000 AF for Santa Margarita River storage and 15,000 AF for annual use.
- 1930-1940** Legal entanglements and financial constraints prevented Fallbrook Irrigation District from proceeding with construction. Vail/Santa Margarita Ranch litigation proceeded without Fallbrook Irrigation District as an interested party.
- 1937** Fallbrook Irrigation District dissolved. Consolidated with Fallbrook Public Utility District.
- 1940** Vail/Santa Margarita Ranch lawsuit settled; 67% to Santa Margarita and 33% to Vail Ranch.
- 1941** Navy Department buys Santa Margarita Ranch for Camp Pendleton.
- 1944** San Diego County Water Authority formed to bring Colorado River water to San Diego City. Fallbrook Public Utility District a charter member, and the Navy a senior rights holder to imported water (15,000 AF/yr.)
- 1946** Fallbrook Public Utility District diversion and storage permits on Santa Margarita River refiled. Storage permits for 30,000 AF granted in 1948.
- 1948** Imported water arrives in Fallbrook.
- 1948** Navy Department applied to State Engineering to build DeLuz dam at Camp Pendleton.

- 1949** Tentative agreement reached to build multi-purpose dam at DeLuz site to serve both Camp Pendleton and Fallbrook Public Utility District.
- 1951** Federal government sues Fallbrook Public Utility District and all its citizens over water rights on Santa Margarita River.
- 1954** Congress authorized Santa Margarita Project (PL 83-547) for single dam at DeLuz site with 60-40 water rights between Navy Department and Fallbrook Public Utility District of original Santa Margarita Ranch 67% share. U.S. Justice Department fails to agree with split of water. The project authorization was for \$22 million (1954).
- 1955-1958** Fallbrook Public Utility District buys river valley lands for the Fallbrook Reservoir.
- 1961** Each agency pursuing separate projects while litigation proceeds. Fallbrook Public Utility District files for PL-984 Small Reclamation Projects loan of \$4.5 million for Fallbrook dam.
- 1966** Lawsuit on water rights results in Stipulated Judgment between the Navy, Justice, Interior, and Fallbrook.
- 1968** Memorandum of Understanding and Agreement signed by U.S. Attorney General, Secretary of the Navy, Secretary of the Interior, Fallbrook Public Utility District Board of Directors. Interior directed to prepare feasibility report for project to satisfy needs and rights, both of Fallbrook Public Utility District and Camp Pendleton with Bureau of Reclamation to operate project. Two dam project declared most economic with 36,500 AF Fallbrook reservoir and 143,000 AF DeLuz reservoir. Total cost in 1968 dollars estimated at \$48,675,000 with Fallbrook Public Utility District share at \$13,254,000.
- 1969** Bureau of Reclamation completed preliminary draft of Feasibility Report. Environmental Policy Act of 1969 required preparation of environmental impact assessment.
- 1971** Draft EI assessment completed and distributed for comments.
- 1972** HR 13299 introduced by Congressman Schmitz.
- 1973** HR 3023 introduced by Congressman Veysey. No hearings scheduled as Feasibility Report and EIR not referred to committee by Interior or Office of Management & Budget (OMB). No specific support from Navy Department.
- 1976** Final EIR published.
- 1978** Severe flood damage at Camp Pendleton.

- 1979** HR 6014 introduced by Congressman Burgener. Bill died in committee.
- 1980** Severe flood damage at Camp Pendleton; 205,000 AF lost to the ocean.
- 1981** HR 1527 introduced by Congressman Burgener. Referred to House Interior and Insular Affairs Committee.
- 1982** S 2684 introduced by Senator S.I. Hayakawa. Referred to Energy and Natural Resources Committee. Hearings held on July 20, 1982 in both House and Senate. BUREC starts updating old studies.
- 1983** HR 1581 introduced by Congressman Packard. S 805 introduced by Senator Wilson; passed Committee and Senate floor by unanimous vote. Authorization for two-dam plan at \$218,670,000.
- 1983-1984** House hearings held on HR 1581 and S 805. Both bills died in House and sub-committee.
- 1984** Bureau of Reclamation released draft supplemental environmental impact statement and planning report for Santa Margarita Project. Rancho California Water District releases facilities Master Plan to expand well field in upper basin.
- 1985** House Armed Services Committee directed Secretary of Navy to conduct independent study of Camp Pendleton's water supply and flood control requirements.
- 1985-1986** Bureau of Reclamation formulated an alternative project consisting of a 65,000 AF structure (50,000 AF of storage and 15,000 AF of flood control) at Fallbrook site with levees on Camp Pendleton. Cost estimate for the smaller project \$118,750,000 with a water supply yield of 11,900 AF. U.S. Fish & Wildlife Service announces intent to list least Bell's Vireo as an endangered species and designates proposed critical habitat.
- 1986** In April, Bureau of Reclamation indicated they were unable to continue further studies due to budget constraints. U.S. Fish & Wildlife lists least Bell's vireo as endangered; critical habitat designation deferred for more public input. In September, Department of the Navy awards contract for Camp Pendleton water study. FPUD awards Phase I contract for development of mitigation plan for smaller project. Navy Determines that federal real estate not available for least Bell's vireo mitigation. USMC signs MOU with U.S. Fish & Wildlife Service to maintain 1200 acres riparian lands for Least Bell's vireo.
- 1987** In January, FPUD awards Phases II, III & IV of environmental study contract for small project. FPUD considers non-federal financing. Camp Pendleton puts Rancho California Water District on notice regarding over pumping of groundwater basin.

- 1988** FPUD/Rancho California WD/Camp Pendleton agree to reestablish Watermaster. Camp Pendleton Water Supply Study (Leedshill-Herkenhoff) completed. Recommends Base obtain additional water from MWD in lieu of local dam and reservoir project.
- 1989** U.S. District court appoints Watermaster; also establishes Steering Committee with initial membership from Camp Pendleton, FPUD, and Rancho California WD. Rancho California WD and Eastern MWD consider live stream discharge of tertiary treated wastewater to Santa Margarita River as least cost disposal option.
- 1990** BUREC gets State Water Resources Control Board approval to extend water rights permits (3 for FPUD, 1 for Camp Pendleton) to 1994. Rancho California WD/Eastern MWD/FPUD/Camp Pendleton sign Four-Party Agreement permitting live stream discharge, with dischargers obligated to mitigate water quality impacts on Camp Pendleton's wells, and providing for year round releases. FPUD/Camp Pendleton sign Two-Party Agreement for conjunctive use of Camp Pendleton's ground-water basin as an alternative to the 2-dam project.
- 1994** FPUD/Camp Pendleton complete comprehensive study of conjunctive use of Camp Pendleton's groundwater basin. BUREC gets another 2-year extension of the 4 water rights permits.
- 2001** Navy publishes the enhanced recovery program report and Camp Pendleton concludes negotiations with Rancho California Water District to provide replacement riverine flows.
- 2002** FPUD, Navy, Reclamation undertake Joint EIR/EIS development for proposed project.
- 2003** Reclamation funding for pre-feasibility established.
- 2004** Reclamation and Navy become Joint Federal Lead Agencies; Fallbrook becomes State Lead Agency, and the Project Management Team is established in the Temecula Field Office to proceed with the EIR/EIS/FA.



FIGURE 1-1

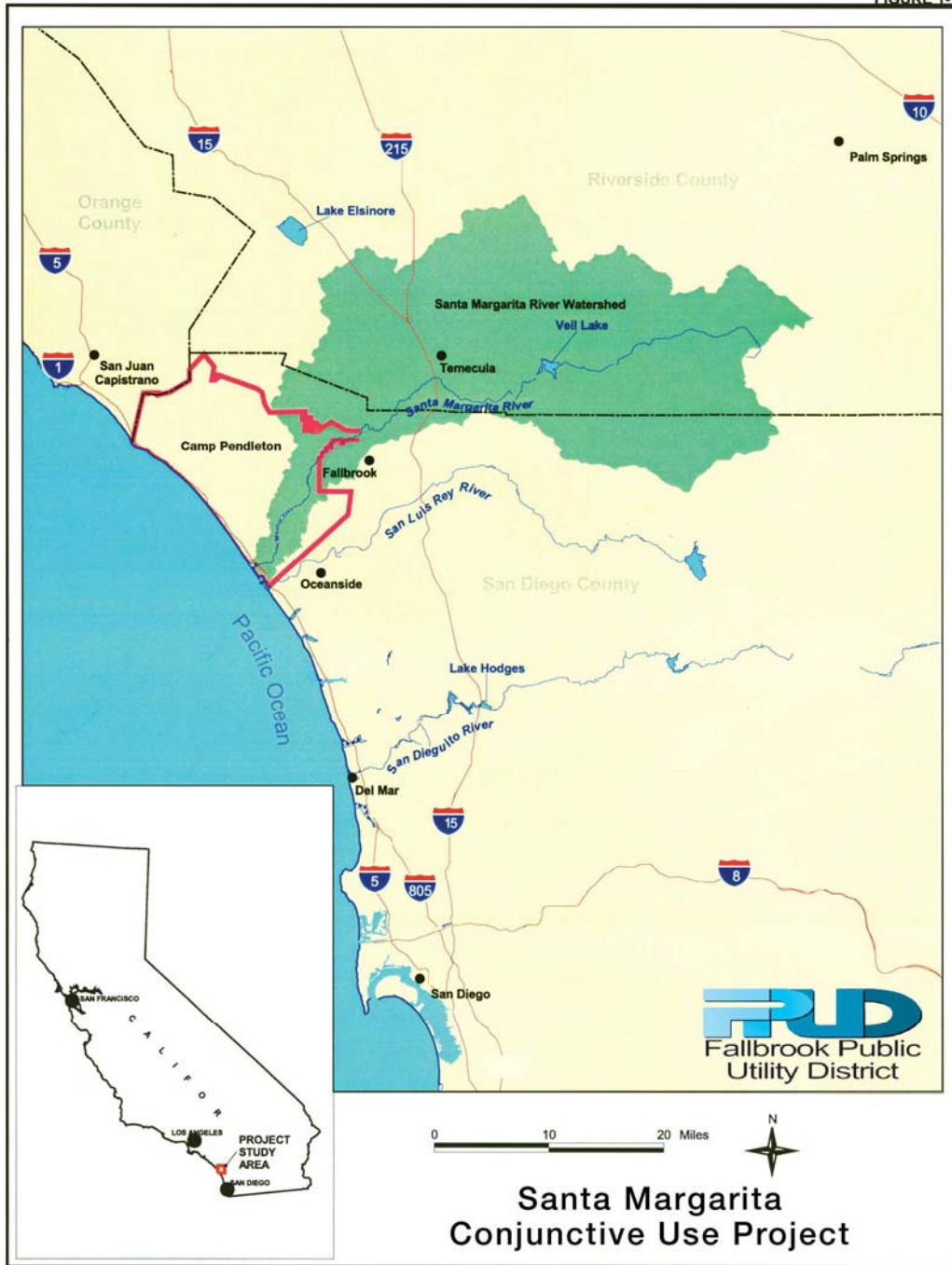


Exhibit A